IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 18359 of 2004

Between:

Toddy Tappers Cooperative Society Group Nagar Kurnool Nagar Kurnool, Mahabubnagar District, rep. by its President/Licencee Mr. Sudharshan Goud, S/o Rangaiah Goud.

..... PETITIONER

AND

1 The Prohibition & Excise Superintendent, Mahabubnagar District at

Mahabubnagar.
2 The Prohibition & Excise Inspector, SHO, Nagar Kurnool, Mahabubnagar

District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the respondents in not sending one of the sample drawn in COR.No.328/2004-2005, dt. 13-9-2004 by P & E1, SHO Nagar Kurnool to independent laboratory ie., Institute of Preventive Medicine Public Health Food Laboratory and Food Administration, Hyderabad alias State Food Laboratory, Nacharam, Hyderabad and Cr.No.B3/3039/2004, dt. 17-9-2004 of the first respondent in suspending the licence of the petitioner as illegal, arbitrary and against the principles of natural justice and set aside the same and direct the respondents to send one of the sample drawn in COR.No. 328/2004-05, dt. 13-9-2004 by P&E1, SHO Nagar Kurnool to independent laboratory ie., Institute of Preventive Medicine Public Health Food Laboratory and Food Administration,

Hyderabad alias State Food Laboratory,Nacharam, Hyderabad by suspending the operation of Cr.No. B3/3039/2004, dt. 17--9-2004 of the first respondent

Counsel for the Petitioner: MR.T.AMARNATH GOUD

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court at the admission stage made the following:

ORDER:

Petitioner is a Toddy Tappers Cooperative Society. The licensed premises of the petitioner Society was inspected on 13.09.2004 by the Prohibition and Excise Sub-Inspector, Enforcement, Mahaboobnagar District and on spot test, it was found that the toddy was adulterated with Chloral Hydrate. The Inspecting Official has drawn samples in three bottles and effected the seizure under the cover of panchanama for sending one of the samples for chemical analysis. Basing on the said report, a case was registered in P.C.R.No.328 of 2004-05 dated 13.09.2004 by the Station House Officer, Nagarkurnool under Rule 37(a) of the Andhra Pradesh Excise (Arrack and Toddy Licenses General Conditions) Rules, 1968 (for short 'the Rules') and sample bottles were deposited in the Court of the Judicial First Class Magistrate, Nagarkurnool. Subsequently, one of the sample bottles was sent to the Chemical Examiner for Prohibition and Excise, Hyderabad, for analysis. On 17.09.2004, the first respondent issued proceedings suspending the licence of the petitioner, pending enquiry.

The petitioner states that as per Rule 24 of the Rules, he is entitled to make a request to send one of the sample bottles for analysis to an independent laboratory. It is also stated that since the licensee was not present at the time of inspection, as per Rule 24 of the Rules, the petitioner is entitled to make a request within 7 days

and accordingly, a request was made by the petitioner on 20.09.2004. The grievance of the petitioner is that in spite of the fact that he made a request before the respondents, the respondent authorities failed to take any further action and so far no requisition has been made to the Court to send the third sample to an independent laboratory as opted by the petitioner. Hence, this writ petition.

Having heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise appearing for the respondents and keeping in view the provisions of Rule 24 of the Rules, I deem it appropriate to dispose of the writ petition with a direction to the respondents to make a request in the Court of the Judicial First Class Magistrate, Nagarkurnool to send one of the samples to an independent laboratory as opted by the petitioner, in case the petitioner has made an application in terms of Rule 24 of the Rules within the time prescribed thereunder. Such exercise shall be done within a period of one week from the date of receipt of a copy of this order. It is also made clear that on receipt of the report from the independent laboratory, in case the finding is in favour of the petitioner, the respondents shall review the order of suspension dated 17-09-2004 and pass appropriate orders in accordance with law.

Accordingly, the writ petition is disposed of. No costs.

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08.10.2004

VGB

To

1 The Prohibition & Excise Superintendent, Mahabubnagar District at Mahabubnagar.

2 The Prohibition & Excise Inspector, SHO, Nagar Kurnool, Mahabubnagar District.

3 2CCs to the Government Pleader for Prohibition and Excise, High Court Buildings, Hyderabad (OUT)

4 2CD copies